

# EXHIBIT C



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**VIA EMAIL**

October 26, 2023

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RE: *Headwater Research, LLC v. Samsung Electronics America, Inc. and Samsung Electronics Co. Ltd.*, USDC TXED Case No. 2:22-cv-00422

Counsel,

We write regarding Headwater's continued refusal to timely communicate with Samsung throughout the course of this litigation.

Headwater's inability to timely correspond with Samsung regarding key issues severely prejudices Samsung's ability to prepare its defenses. Samsung has consistently been kept in the dark by Headwater's delays, despite Samsung's often-numerous follow-up communications designed to encourage good-faith, meaningful dialogue between the parties.

The following is a non-exhaustive list of correspondence between the parties illustrating Headwater's routine pattern of delay, if not obstruction:

Samsung Correspondence	Correspondence Date	Samsung Follow-up Date	HW Response Date	Description
Letter fr Kodish re Doc Requests	4/7/2023	5/19/2023 (via email)	None	Despite following up on 5/19/2023, Samsung never received a response to this correspondence.
Email fr Kodish re May 26 Meet and Confer	5/30/2023	6/6/2023 (via email)	6/10/2023	Headwater missed an agreed 6/2/2023 response date to respond to issues raised regarding Headwater's claimed priority date on the 5/26/2023 meet and confer. Moreover, Headwater explicitly agreed to provide further supplemental information in response to Samsung's Interrogatory No.



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Samsung Correspondence	Correspondence Date	Samsung Follow-up Date	HW Response Date	Description
				2 (see 6/10/2023 Email fr Tseui), yet Headwater's 6/21/2023 Second Supplemental Objections and Responses to Samsung's First Set of Interrogatories lacked any such supplemental information. See 6/23/2023 Email fr Hartzman. Headwater finally supplemented its response to Samsung's Interrogatory No. 2 on 7/5/2023.
Email fr Crisler re Third Party Subpoena Service	6/8/2023	6/20/2023 (via email) 6/29/2023 (via email) 7/20/2023 (via email)	7/20/2023	Headwater taking over a month to confirm whether it was authorized to accept service on behalf of certain individuals and entities listed in the parties' initial disclosures.
Email fr Lake re Samsung's Subpoena to James Harris	7/7/2023	7/18/2023 (via email)	7/20/2023 (non-substantive)	Headwater provided no substantive response (after prompting and two weeks' delay) to Samsung's email of 7/7/2023 indicating deficiencies in Headwater's production regarding Mr. Harris.
Samsung's Subpoena to Charlie Giancarlo	Served 8/7/2023	9/19/2023 (via email)	9/25/2023 (production only, providing no response to subpoena)	Headwater's counsel has not provided a response to Samsung's subpoena. Mr. Giancarlo finally provided a document production on 9/25/2023. To date, Mr. Giancarlo's production remains deficient. See 10/23/2023 Email fr Carrigan.



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Samsung Correspondence	Correspondence Date	Samsung Follow-up Date	HW Response Date	Description
Letter fr Kodish re ROG 14-17 Response Deficiencies	8/18/2023	8/29/2023 (via email) 9/5/2023 (via email) (requesting response by 9/8/2023)	8/30/2023 (non-substantive) 8/31/2023	Headwater failing to acknowledge Samsung's deficiency letter for nearly two weeks, culminating in a meet and confer on 9/1/2023. Following that meet and confer, Headwater refused to supplement its insufficient responses to Samsung's Interrogatory Nos. 14-17.
Letter fr Kodish re Third Party Privilege Logs	8/31/2023	9/11/2023 (via email)	9/12/2023 (non-substantive)	As of this writing Headwater has only provided privilege logs for two of twelve third parties represented by its counsel, despite further follow up from Samsung via email on 9/19/2023 from Mr. Lake.
Email fr Hartzman re Raleigh Deposition	9/6/2023	9/12/2023 (via email)	9/13/2023	Headwater taking over a week to confirm deposition availability of Gregory Raleigh.
Email fr Hartzman re ItsOn Inc. Deposition	9/7/2023	9/15/2023 (via email)	9/19/2023	Headwater, taking nearly two weeks to respond, refusing to produce a witness for ItsOn Inc. on the grounds that it is defunct despite accepting service on its behalf and the fact that ItsOn served objections and responses to the subpoena.
Email fr Thompson re Raleigh Email Search Terms	9/12/2023	9/19/2023 (via email)	9/21/2023	Headwater taking nearly two weeks to respond to Samsung's email requesting ESI search term hits.
Letter fr Kodish re Production Deficiencies	9/15/2023	9/26/2023 (via email) 9/29/2023 (via email)	9/26/2023 (non-substantive)	Headwater taking nearly two weeks to respond to Samsung's deficiency letter, failing to timely respond to



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Samsung Correspondence	Correspondence Date	Samsung Follow-up Date	HW Response Date	Description
		10/10/2023 (via email) 10/17/2023 (via email) (requesting production by 10/20/2023)	10/19/2023 (non-substantive)	Samsung's offer to meet and confer within the letter, and promising that an upcoming production would address "some" of Samsung's issues. The eventual production was further deficient, missing the required metadata under the ESI order, and was not supplemented until October 2, 2023 after further emails from Samsung. <i>See</i> 9/29/2023 Email fr Lake re Production Deficiencies. Headwater's production remains deficient, prompting Samsung's 10/10/2023 email fr Lake, which requested a meet and confer on 10/11 or 10/12 to which Headwater did not respond to until further follow up from Samsung, well past the requested dates to meet and confer. <i>See</i> 10/17/2023 Email fr Lake. To date Headwater's production remains deficient.
Email fr Lake re Third Party Privilege Logs	9/19/2023	10/17/2023 (via email) 10/23/2023 (via email) (requesting response by 10/25/2023)	10/18/2023 (partial response)	As of this writing Headwater has failed to respond to Samsung's latest email regarding third party privilege logs requesting that Headwater's counsel provide a concrete timeline for production of privilege logs.
Email fr Lake re Third Parties Lorenzo, Chong	10/4/2023	10/11/2023 (via email)	10/12/2023 (partial response)	Headwater's Counsel taking nearly two weeks to partially answer whether it is able



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Samsung Correspondence	Correspondence Date	Samsung Follow-up Date	HW Response Date	Description
		10/23/2023 (via email)		accept service on behalf of individuals listed in Headwater's supplemental response to ROG No. 11. Items from Mr. Lake's 10/4/2023 email remain outstanding to date.
Email fr Thompson re Raleigh Email Production	10/4/2023	10/10/2023 (via email) 10/16/2023 (via email) 10/19/2023 (via email) 10/24/2023 (via email)	10/19/2023 (non-substantive)	As of this writing, Headwater has yet to substantively respond to Samsung's proposed revised search term and yet to confirm when it will produce Gregory Raleigh's email hits.
Letter fr Kodish re Jacobsen Privilege Log Deficiencies	10/12/2023	10/19/2023 (via email) (requesting response by 10/20/2023)	None	As of this writing, Headwater has yet to acknowledge or respond to Samsung's deficiency letter.

Headwater also routinely makes promises to provide responses or information to Samsung, yet fails to timely follow through on those promises. For example, in a 6/10/2023 email from Mr. Tsuei regarding the parties' May 26, 2023 meet and confer, Mr. Tsuei represented that Headwater would provide additional supplemental information relating to Headwater's priority claim, yet two weeks later—with no supplemental information provided—Samsung had to once again follow up re-requesting the supplemental information. *See* 6/23/2023 Email fr Hartzman re May 26 Meet and Confer.

There are still further instances of Headwater stonewalling and delaying concerning key events. For example, on 8/14/2023 Samsung issued a subpoena to Mr. Greg Raleigh—an individual identified by Headwater as having knowledge of the facts surrounding Headwater's claims—to provide testimony in his individual capacity. Over two weeks later, Headwater responded that it would “make Dr. Raleigh available for a deposition in both his individual and corporate capacity” which would occur “within four weeks after receipt of [Samsung's 30(b)(6)] notice.” 8/31/2023 Email from Tsuei. Of course, Samsung would not allow Headwater to dictate Samsung's discovery and followed up—via email on 9/6/2023 and 9/12/2023—to schedule Mr. Raleigh's deposition. It wasn't until a month after Samsung's service of the notice that Headwater finally confirmed Mr. Raleigh's deposition. *See* 9/26/2023 Email fr Tsuei re Raleigh Deposition. What's



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more, Headwater refused to make Mr. Raleigh available until November 15, nearly three months after Samsung's request for the deposition.

Headwater's tardiness also concerns written discovery. For example, Headwater also belatedly served its responses to Samsung's 3rd set of Interrogatories Nos. 14-17. Indeed, Headwater only provided its responses after prompting by Samsung's counsel. *See* 8/11/2023 Email fr Gallo re Samsung's 3rd Set of Interrogatories Nos. 14-17. Further still, the responses were entirely deficient. *See* 8/18/2023 Letter fr Kodish re ROG 14-17 Response Deficiencies. To date, Headwater has neglected to provide any supplemental responses despite numerous follow up emails from Samsung pointing out the deficiencies. *See* 8/29/2023 Email fr Kodish re ROG 14-17 Response Deficiencies; 9/5/2023 Email fr Hartzman re ROG 14-17 Response Deficiencies.

If Headwater's pattern of delay continues, Samsung reserves the right to raise this issue with the Court. Moving forward, Samsung expects Headwater, as the plaintiff in this matter, to engage in good faith communication in a timely manner.

Regards,

A handwritten signature in black ink, appearing to read "Thad C. Kodish".

Thad C. Kodish